

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

§

§

CIVIL ACTION NO. 6:11CV600

§

ORDER OF DISMISSAL

The Report and Recommendation of the Magistrate Judge, which contains his findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the Commissioner's Motion to Dismiss for Lack of Prosecution (docket entry #16) be granted and the complaint be dismissed without prejudice for failure to prosecute and failure to comply with an order of the court, pursuant to Fed. R. Civ. P. 41(b). Plaintiff has filed written objections.

In her objections, Plaintiff asserts that her “disability continues” and she could not find an attorney to take her case. Objections at 1. She also asserts that she only received the Commissioner’s Motion to Dismiss on July 27, 2012, when she picked up her certified mail. However, that still allowed her to file timely objections. Nonetheless, the Court issued its Order Directing Filing of Briefs in January 2012. Plaintiff acknowledged that Order on January 9, 2012. Although she filed a Motion for Appointment of Counsel, which was denied, she was still under the obligation to file a brief stating why she believes the Commissioner improperly denied her disability

benefits. She has not done so and has never communicated to the Court until she filed her objections after the Magistrate Judge issued his Report and Recommendation. Even then, she did not attempt to file a brief or even seek additional time to do so, but relies on her argument that she has not yet been able to find an attorney to represent her. That is not a basis for failing to obey the Court's Order or to fail to communicate with the Court.

Having made a *de novo* review of the objections filed by Plaintiff, the Court finds that the findings, conclusions and recommendation of the Magistrate Judge are correct. The findings and conclusions of the Magistrate Judge are therefore adopted as those of the Court and Plaintiff's objections will be overruled. In light of the foregoing, it is

ORDERED that Plaintiff's objections are hereby **OVERRULED**. It is further

ORDERED that the Commissioner's Motion to Dismiss for Lack of Prosecution (docket entry #16) is hereby **GRANTED**. It is further

ORDERED that the complaint is hereby **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 41(b). It is further

ORDERED that any motion not previously ruled on is **DENIED**.

It is SO ORDERED.

SIGNED this 21st day of August, 2012.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE